

#### REMARKS

Reconsideration is respectfully requested. Claims 1-4 and 10 are present in the application. Claim 1 is amended herein. Claim 10 is added herein. Non-elected claims 5-9 are canceled.

As required by the Examiner, applicant affirms the election to prosecute claims 1-4, this election having previously been made by telephone. The non-elected claims are canceled, with reservation of the right to file continuation/divisional applications directed thereto.

The Examiner has rejected claims 1-4 under 35 U.S.C § 112, as allegedly being indefinite. The Examiner states:

Claim 1 recites "an etching stop layer having lower stress". ... The term "lower" requires a reference point against which the comparison is to be made.

Applicant respectfully submits that the rejection of claims 1-4 is overcome by applicant's amendment to claim 1.

In Claim 1 as amended, the comparison between "a silicon oxide film having a first internal stress" and "an etching stop layer having lower internal stress than said first internal stress" is complete and the term "lower" has an appropriate reference point.

Support for the amendment of claim 1 is to be found in the specification, at least at page 8, lines 17-20 where it is stated: "... the silicon oxide film having higher stress existing in the opening is removed and, instead of the removed silicon

oxide film, an etching stop layer having lower internal stress is freshly formed."

Applicant respectfully requests, based on the amendment of claim 1, that the rejection of claims 1-4 be reconsidered and withdrawn.

The Examiner has rejected Claims 1-4 under 35 U.S.C. §102(a) as allegedly being anticipated by US Patent Application Publication 2003/0071283 of Heschel. Applicant notes that Heschel 2003/0071283 is not officially of record, as it is not listed on the Notice of References Cited and was not available for download on the PAIR page for this application. It is noted that Heschel 2005/0059204 is listed on the Notice of References Cited. Applicant respectfully requests that a further notice be sent making Heschel 2003/0071283 officially of record.

In the rejection, the Examiner states:

Heschel teaches a structure comparable to the claimed mask. See figure 1k.

Applicant respectfully traverses. The structure shown in Fig. 1k of Heschel is not a mask blank, rather Fig. 1k shows an intermediate structure in the fabrication sequence of a semiconductor lid that may be used for a subassembly for optoelectronic integrated circuits where the lid may provide a cover for an optoelectronic chip or component being optically coupled to a waveguide. (Heschel, [0024]).

In Fig. 1k of Heschel, a portion of a first silicon oxide film 12 has been removed and instead of the removed oxide film 12

a second oxide film 31 is formed. The second oxide film 31 is not expected to have lower internal stress than the first oxide film 12. The second oxide film 31 is not an etching stop layer having lower internal stress than the removed silicon oxide film as required by the rejected claims. Therefore Heschel does not provide a valid basis for rejection under 35 USC §102(a). Applicant respectfully requests the rejection of claims 1-4, based on Heschel, be reconsidered and withdrawn, in that Heschel neither teaches nor suggests the claims 1-4.

The Examiner has rejected claims 1-4 under 35 U.S.C. §102(e) as allegedly being anticipated by US Patent Application 2004/0087065 of Udrea et al. The Examiner states:

Udrea et al. teach a structure comparable to the claimed mask. See Fig. 36c.

Applicant respectfully traverses. The structure shown in Fig. 36c of Udrea et al. is not a mask blank, rather, it is a membrane power semiconductor device.

Further, in Fig. 36c, terminal layer 103, formed in part in an area where intermediate insulating layer 50 has been removed, is not an etching stop layer.

Further, Udrea et al. does not disclose the level of internal stress in terminal layer 103, nor does Udrea et al. impose any limit on the level of internal stress in terminal layer 103.

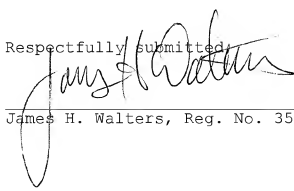
Based on the above discussion, applicant respectfully requests that the rejection of claims 1-4, based on Udrea et al.

be reconsidered and withdrawn in that it neither teaches nor suggests the claims.

New claim 10 is added herein and is believed allowable. New claim 10 recites "wherein the etching stop layer has internal stress in a range from -10 Mpa to +10 Mpa." Support for new claim 10 is to be found in the application, particularly at page 11, lines 25-28.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

Respectfully submitted,



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